

**CORSARO & ASSOCIATES CO., LPA**

28039 CLEMENS ROAD  
WESTLAKE OH 44145  
(440) 871-4022/TELEPHONE  
(440) 871-9567/FACSIMILE

August 23, 2013

VIA FACSIMILE

VIA U.S. MAIL

CITY OF CLEVELAND,  
Department of Public Safety  
Martin L. Flask, Director  
601 Lakeside Avenue, Room 230  
Cleveland, OH 44114

Re: Ken Lanci for Mayor

Dear Mr. Flask:

The undersigned serves as legal counsel to Kenneth A. Lanci.

On August 20, 2013, Mr. Lanci received a Notice from your office demanding the removal of several political signs at eight (8) separate locations, pursuant to Section 623.14 of the Codified Ordinances of the City of Cleveland. Your Notice demands that the signs be removed within forty-eight (48) hours and threatens to charge Mr. Lanci and his Campaign with a fine of \$15.00 per sign.

At the outset, surely the City of Cleveland has more pressing issues than the public display of campaign signs and the collection of minuscule \$15.00 fines. But more troubling than the pettiness of the Notice is the fact that Section 623.14 is completely unconstitutional and unenforceable.

Section 623.14 is a wholesale prohibition against the placement of political signs on public property. Numerous State and Federal courts in Ohio and throughout the United States have consistently struck down less restrictive ordinances as violative of the First Amendment protections of freedom of speech. *See, e.g., Peltz v. City of South Euclid* (1967), 11 Ohio St.2d 128; *City of Euclid v. Mabel* (8<sup>th</sup> Dist. 1984), 19 Ohio App.3d 235; *Maguire v. City of American Canyon* (N.D. Cal.), 2007 WL 1875974; *Bella Vista United v. City of Philadelphia* (E.D. Tenn.), 2004 WL 825311; *Sugarman v. Village of Chester* (S.D.N.Y. 2002), 192 F. Supp. 2d 282; *Rappa v. New Castle County* (D. Del. 1992), 813 F. Supp. 1074; *Runyon v. Fasi* (D. Hawaii 1991), 762 F. Supp. 280.<sup>1</sup>

As stated by the Eighth District Court of Appeals in *Mabel*, "It is well-established that generally the government cannot restrict expression on the basis of its subject matter . . . to allow a

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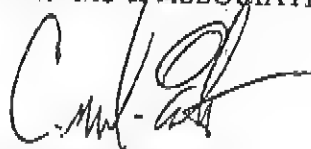
<sup>1</sup>We are aware of the Sixth Circuit Court of Appeals' decision in the case of *Brown v. Barren* (6<sup>th</sup> Cir. 1993), 977 F.2d 580, wherein the Sixth Circuit opined that the subject Ordinance may be constitutional. However, the *Brown* decision deals with an older version of the Ordinance, is only a few paragraphs in length, contains no detailed analysis, did not involve any oral argument on the merits and was designated as an "unpublished opinion" by the Sixth Circuit. Accordingly, the *Brown* decision cannot be viewed as either binding or persuasive authority.

CORSARO & ASSOCIATES CO., LPA  
Page 2

government the choice of permissible subjects for public debate would be to allow that government control over the search for political truth." 19 Ohio App.3d at 237 (internal citations omitted). Here, Section 623.14, on its face, pertains only to a "poster, placard or sign advertising, publicizing or containing thereon information concerning any event, ballot issue, organization or candidate for office." As the subject Ordinance restricts signage on the basis of its subject matter (i.e., political issues) it is facially unconstitutional under the First Amendment and therefore not enforceable against my client and his Campaign.

Based on the above, on behalf of my client I demand that the August 20, 2013 Notice be withdrawn and that the subject signs be allowed to remain in their current locations. If we are not able to resolve this matter civilly and amicably, we have little choice but to pursue an injunction to protect the constitutionally protected rights of the City's political candidates and their supporters.

Sincerely,  
CORSARO & ASSOCIATES CO., LPA



By: Christian M. Bates, Esq.

cc: Mr. Kenneth A. Lanci  
Mr. Michael Cox, Director, Public Works (via facsimile)  
Ms. Barbara Langhenry, Director, Department of Law (via facsimile)  
Mr. Edward Eckart, Assistant Director, Department of Public Safety (via facsimile)



City of Cleveland  
Frank G. Jackson, Mayor

Department of Law  
Barbara A. Langhenry, Director  
601 Lakeside Avenue, Room 106  
Cleveland, Ohio 44114-1077  
216/664-2800 • Fax: 216/664-2663  
www.cleveland-oh.gov

August 23, 2013

By Facsimile: 440-871-9567

Christian M. Bates  
Corsaro & Associates  
28039 Clemens Road  
Westlake, Ohio 44145

Re: Ken Lanci for Mayor Signs on Public Property

Dear Mr. Bates:

I am responding to your letter of August 23, 2013 to Cleveland Director of Public Safety Martin Flask. In that letter, you assert that Cleveland Codified Ordinance 623.14 prohibiting political signs on public property is unconstitutional and unenforceable because it is a wholesale prohibition against the placement of political signs on public property and because it is a content-based restriction on political signs only. You have demanded that Director Flask withdraw the notice he sent on August 20, 2013 requesting that the Ken Lanci for Mayor campaign remove its signs located on specific public property.

The City will not withdraw that notice. Cleveland Codified Ordinance 623.14 is constitutional and enforceable. The cases that you cite do not find that laws similar to the City of Cleveland's are unconstitutional. Furthermore, the City does not restrict only political signs. Please see Cleveland Codified Ordinance 623.13 restricting the placement of any sign on public property.

If you have any further questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Barbara A. Langhenry", is written over the typed name and title.

Barbara A. Langhenry  
Director of Law

cc: Martin J. Flask, Director of Public Safety  
Michael Cox, Director of Public Works  
Edward Eckart, Assistant Director of Public Safety

**CORSARO & ASSOCIATES CO., LPA**

28039 CLEMENS ROAD  
WESTLAKE OH 44145  
(440) 871-4022/TELEPHONE  
(440) 871-9567/FACSIMILE

**\*\*\*CONFIDENTIALITY NOTE\*\*\***

The information contained in this facsimile is confidential, attorney-client privileged material exempt from disclosure under applicable law. Its use is intended for the addressee only. If you are not the intended recipient of this facsimile material, distribution or copying of this communication is prohibited.

DATE: August 28, 2013 FAX NO.: 216-664-2663  
TO: Ms. Barbara A. Langhenry, Director  
CITY OF CLEVELAND,  
COMPANY: Department of Law  
FROM: Christian M. Bates, Esq. NO. OF PGS. (INCLUDING COVER SHEET): 3  
COMMENTS:

Please see the attached.

cc: Mr. Martin L. Flask, Director, Department of Public Safety (fax-216-664-3734) (phone-216-664-3476)  
Mr. Michael Cox, Director, Public Works (fax-216-664-4086) (phone-216-664-2485)  
Mr. Edward Eckart, Asst. Director, Dept. of Public Safety (fax-216-664-3734) (phone-216-664-3734)

\*\*\*\*\*

**CONFIRMATION**

Sent by: Date/Time Sent:  
Confirmation No.: 216-664-2800 Spoke with:  
Confirmed by: Date/Time Confirmed:

**CORSARO & ASSOCIATES CO., LPA**

28039 CLEMENS ROAD  
WESTLAKE OH 44145  
(440) 871-4022/TELEPHONE  
(440) 871-9567/FACSIMILE

August 29, 2013

**VIA FACSIMILE**

**VIA U.S. MAIL**

**CITY OF CLEVELAND**

Ms. Barbara A. Langhenry, Director  
Department of Law  
601 Lakeside Avenue, Room 106  
Cleveland, OH 44114

Re: Kenneth A. Lanci

Dear Ms. Langhenry:

On August 23, 2013, my office sent correspondence to Mr. Martin Flask, Director, Department of Public Safety for the City of Cleveland, advising that the Notice he issued to my client and his Campaign was invalid to the extent City of Cleveland Codified Ordinance 623.14 is an unconstitutional restriction of free speech under the First Amendment. My August 23 correspondence, which was copied to your attention, was sent at approximately 2:15 p.m. At approximately 5:45 p.m. I received a facsimile response from your office, which I did not have a chance to review until Monday of this week. Please allow this letter to address the issues raised in your response.

At the outset, while I appreciate your prompt attention to this matter, I am concerned that the issues raised in my August 23 correspondence have not received the level of analysis that is warranted given the seriousness of the situation. Your response was faxed to my office less than four (4) hours after I sent my initial letter. This means, at most, the City spent only a few hours considering the complex First Amendment issues raised in my letter. Surely, the seriousness of these issues and the restrictions Section 623.14 places on political speech warrant a more thorough investigation by the City before rejecting our assertions. Indeed, my office spent several days diligently researching State and Federal case law from throughout the United States before responding to Mr. Flask's initial Notice. As a public servant, I respectfully believe you owe it to the people of the City of Cleveland to fully exhaust your due diligence before summarily rejecting a claim that a City Ordinance violates the Constitution.

I believe that once this matter is fully researched, you will agree that the position taken in your recent correspondence is at odds with First Amendment jurisprudence. As I understand your argument, you are suggesting that Section 623.14 is constitutional because, when read in connection with Section 623.13, there is a wholesale ban on all signs on all public property within the City of Cleveland. Stated differently, I understand you to be saying that the statutory scheme of Section 623, when viewed as a whole, does not single out political signs and is thus "content neutral." I apologize if I am misunderstanding your position, but please respect that your recent correspondence does not go into a great level of detail in substantiation of your position.

CORSARO & ASSOCIATES CO., LPA  
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Assuming I understand your argument correctly, I must respectfully disagree. While it is true that a blanket prohibition against all signage may not violate the First Amendment, I disagree that Sections 623.13 and 623.14, when read together, constitute such a blanket prohibition. To begin, if Section 623.13 was a prohibition of all signs on all public property, Section 623.14, which singles out political signs, would be completely superfluous and unnecessary. As I am sure you are aware, a standard canon of statutory interpretation prohibits giving a meaning to a statute that would render it superfluous. See, e.g., Nat'l Air Traffic Controllers Ass'n v. Secretary of Dept. of Transp. (6<sup>th</sup> Cir. 2011), 654 F.3d 654, 657. Accordingly, for this reason, Section 623.13 cannot be viewed as a blanket prohibition against all signage within the City of Cleveland.

Moreover, it is significant that Section 623.14 specifically pertains to political signs on "any public property," whereas Section 623.13 (dealing with signs generally) prohibits their placement on only certain types of public property (e.g., sidewalks, voting booths, curbstones, etc.). Thus, a simple reading of the two statutes demonstrates that political signs are more restricted than their nonpolitical counterparts. Accordingly, even when read together, the statutory scheme embodied in Section 623 is not content neutral as required by the United States Supreme Court, as it singles out, and places more severe restrictions upon, political signs.

I would respectfully ask that you consider the above arguments and revisit the position taken in your recent correspondence. I am certain that after you review the issues you will agree with me that Section 623.14 is an unconstitutional restriction under the First Amendment, will withdraw Mr. Flask's August 20 Notice and allow my client's signs to remain intact. As stated in my previous letter, unless this matter is resolved to our satisfaction, we will consider appropriate legal action to protect the constitutional rights of my client, all candidates for office within the City of Cleveland, and their respective supporters.

Sincerely,  
CORSARO & ASSOCIATES CO., LPA



By: Christian M. Bates, Esq.

cc: Mr. Martin L. Flask, Director, Department of Public Safety (via facsimile)  
Mr. Michael Cox, Director, Public Works (via facsimile)  
Mr. Edward Eckart, Assistant Director, Department of Public Safety (via facsimile)  
Mr. Kenneth A. Lanci

RECEIVED  
AUG 29 2013

City of Cleveland  
Department of Law

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**\*\*\*KEEP THIS PAGE WITH *FILE COPY* OF PROJECT\*\*\***





City of Cleveland  
Frank G. Jackson, Mayor

Department of Law  
Barbara A. Langhenry, Director  
601 Lakeside Avenue, Room 106  
Cleveland, Ohio 44114-1077  
216/664-2800 • Fax: 216/664-2663  
www.cleveland-oh.gov

September 11, 2013

By facsimile(440-871-9567)  
and U.S. Mail

Christian M. Bates  
Corsaro & Associates  
28039 Clemens Road  
Westlake, Ohio 44145

Re: Ken Lanci for Mayor Signs on Public Property

Dear Mr. Bates:

I am responding to your letter of August 29, 2013. I was disappointed that you chose to question my diligence as a public servant rather than simply arguing your case. Please be aware that this is not the first time that this office has addressed First Amendment issues involving public property. As your first letter of August 23, 2013 noted, the ordinance that you are questioning was the subject of a federal case resulting in a 1993 Sixth Circuit opinion upholding the ordinance.

I looked at every case that you cited in your August 23, 2013 letter and none of them can be construed to find Cleveland's ordinance unconstitutional. Additionally, in *Barrett v. Brown* (6<sup>th</sup> Cir. 1993), 977 F.2d 580, 1992 WL 259305, the Sixth Circuit considered Codified Ordinance 623.14, the same ordinance you are questioning, and stated, "As to the merits, we hold that defendants are entitled to judgment as a matter of law because the ordinance under which plaintiffs were allegedly threatened with prosecution is not an unconstitutional restraint on protected speech. . . .The ordinance is content neutral, narrowly tailored to serve a significant government interest, and leaves open ample alternative channels of communication." You have argued that this case does not apply because the ordinance considered in 1993 was amended and is not the same ordinance in place today. I have enclosed a copy of the enacting ordinance for the ordinance that was in effect until early 1993. Be aware that the current Codified Ordinance numbering system was put in place in December of 1976. Because the enacting ordinance I have enclosed passed before that date, the relevant ordinance bears the former Codified Ordinance numbering and is identified as Section 19.5138. You will find that division (a), which contains the restrictions, is substantially similar to division (a) of the ordinance in place today. Thus, the holding of the Sixth Circuit continues to be relevant.



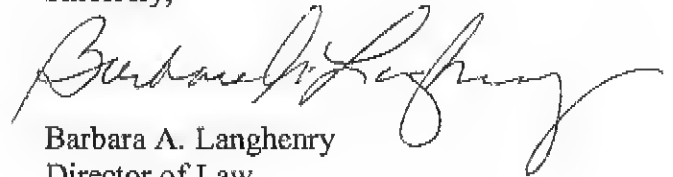
The Sixth Circuit in *Barrett* supported the City's position that the City's ordinance provisions are content neutral because they do not restrict only political signs on public property. Referencing Codified Ordinance 623.14, the Sixth Circuit stated, "While this provision appears to be facially unconstitutional because it is not content neutral, when read *in pari materia* with Ordinances 623.12 and 623.13, our First Amendment concerns are satisfied." *Barrett*, supra, at 977 F.2d 580, fn 1. Although C.O. 623.13 uses different language from C.O. 623.14, the list of places where signs are prohibited appears to be exhaustive of public property and includes "telegraph, telephone, railway or electric light poles within the limits of the City" and "the property of the City or within the street lines of the City, or over which the City has the care, custody, or control." The notices that the City has sent to the Ken Lanci for Mayor campaign have concerned those very types of public property.

The City will not withdraw the August 20 Notice. Cleveland Codified Ordinance 623.14 is constitutional and enforceable. Posting signs on utility poles, as the Ken Lanci for Mayor campaign has done, is illegal, dangerous, and damaging to City property.

If you choose to seek immediate equitable relief in court, please know that the City would like to appear and be heard. Please contact the Law Department at 216-664-2800. You may ask to speak to me or Chief Trial Counsel Tom Kaiser.

If you have any further questions, please contact me.

Sincerely,



Barbara A. Langhenry  
Director of Law

cc: Martin J. Flask, Director of Public Safety  
Michael Cox, Director of Public Works  
Edward Eckart, Assistant Director of Public Safety  
Tom Kaiser, Chief Trial Counsel

rate of sixty gallons in original metal containers or approved safety containers not exceeding five-gallon individual capacity. A metal waste can with self-closing cover shall be provided for all waste materials and rags, and the contents shall be removed daily. No person shall smoke or use open flame in finishing rooms at any time.

**Section 5.2316. Delivery or Transfer of Flammable Liquids or Liquefied Petroleum Gases while Vehicles are Parked on Streets.**

(a) No person, firm, or corporation shall either directly or indirectly deliver any flammable liquid from any tank, wagon, truck or other vehicle or by bucket, pail, can or similar container into the fuel tank or other receptacle of, in or on any motor vehicle which is stopped or parked upon any street or highway. However, nothing herein shall prohibit in an emergency the delivery from an approved container of not more than five gallons of flammable liquid into any motor vehicle fuel tank or receptacle.

(b) Except while delivering or transferring fuel oil into approved storage tanks at consumer sites, tank trucks or other vehicles delivering or transferring Class I, II or III flammable liquids shall be parked on private property during the delivery or transfer of these liquids.

The delivery and transfer of liquefied petroleum gases from tank trucks or other vehicles shall be in accordance with Section 5.2318 and the rules and regulations of the Board of Building Standards and Building Appeals.

(c) In an emergency, the Fire Chief shall approve the method of transfer of flammable liquids or liquefied petroleum gases while vehicles are parked on streets or highways.

**Section 5.2309. Penalty.**

Whoever violates any provision of this chapter is guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100.00). For a second offense such person is guilty of a misdemeanor of the fourth degree and shall be fined not more than two hundred fifty dollars (\$250.00) or imprisoned not more than thirty days or both. On a third or subsequent offense such person is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than one year or both. Each day of a continuing violation shall be deemed a separate offense.

**Section 3. That Section 5.2402 of The Codified Ordinances of the City of Cleveland, as amended by Ordinance No. 2074-58, passed December 15, 1958, be and the same is hereby amended to read as follows:**

**Section 5.2402. Prohibitions.**

(a) No person shall manufacture any gun powder, fireworks, explosive compound, or detonating substances within the corporate limits of the City of Cleveland.

(b) No person shall sell, give away or otherwise dispose of or deliver to any person under eighteen years of age any explosives, whether such persons is acting for himself or for any other person. (ORC 3743.02)

No person shall knowingly acquire, have, carry or use any dangerous ordinance as defined in Sec-

tion 19.13101 of the General Offense Code of the City of Cleveland, unless excepted by Ohio R. C. 2923.17 or such person is the holder of a license or temporary permit issued and in effect pursuant to Ohio R. C. 2923.18.

The sale or furnishing of firearm ammunition to any person under eighteen years of age and the sale of handgun ammunition to any person under twenty-one years of age is governed by Section 19.13107 of The Codified Ordinances of the City of Cleveland.

(c) No person shall discharge any firearms at or against any magazine or a vehicle transporting explosives.

(d) No person shall use or discharge any commercial explosives within the corporate limits of the City of Cleveland except in connection with authorized blasting operations or demolitions.

(e) No person shall sell, offer for sale or have in his possession or custody any squib, rocket, cracker or Roman candle or fire balloon or any other combustible fireworks or any article for the making of a pyrotechnic display within the corporate limits of the City of Cleveland, except that nothing in this section shall be construed as to prohibit the Chief of the Division of Fire from permitting pyrotechnical displays of fireworks in areas so approved by him. (The term fireworks herein shall not include toy pistols, toy canes, toy guns, or other devices in which paper caps containing 25/100ths grains or less of explosives compound are used providing they are so constructed that the hand cannot come in contact with the cap when in place for the explosion and toy pistol paper caps shall contain not less than 20/100ths grains of explosives mixture, the sale and use of which shall be permitted at all times.)

No person shall ship fireworks or other articles for the making of a pyrotechnic display from any point of origin within or without the City of Cleveland nor shall he transport, haul, convey or deliver within the City of Cleveland, nor shall any such shipment of fireworks be contracted for or accepted unless such fireworks are to be discharged or displayed pursuant to authority granted by a permit issued by the Chief of the Division of Fire.

(f) No vessel shall operate in the Cuyahoga River with explosives aboard, whether loading or unloading explosives unless it shall be in conformity with regulations as adopted by the Interstate Commerce Commission and the United States Coast Guard. (Code of Federal Regulations Title 33-Pt. 126.)

(g) No person shall store, transport, possess, sell or use explosives within the corporate limits of the City of Cleveland except as otherwise provided in this Chapter.

**Section 4. That existing Section 5.2402 of The Codified Ordinances of the City of Cleveland be and the same is hereby repealed.**

**Section 5. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.**

Passed June 14, 1976.

Effective June 18, 1976.

**Ord. No. 1020-76.**  
By Councilmen Zunt, and Moss (by departmental request).

An emergency ordinance to amend Sections 19.2102, 19.5105, 19.5123, 19.7104, 19.8103, 19.8105, 19.8110 and 19.10105, and to repeal Section 9-051002 and various Sections of Chapter 13—Penal Code—of The Codified Ordinances of The City of Cleveland and to supplement The Codified Ordinances of the City of Cleveland by enacting various new Sections, relating to General Offenses.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department, now, therefore,

Be it ordained by the Council of the City of Cleveland:

**Section 1. That Sections 19.2102 and 19.5105 of The Codified Ordinances of the City of Cleveland, as enacted by Ordinance No. 54-74, passed March 25, 1974; Section 19.5123 of The Codified Ordinances of the City of Cleveland, as enacted by Ordinance No. 707-74, passed July 8, 1974; Sections 19.7104 and 19.10105 of The Codified Ordinances of the City of Cleveland, as enacted by Ordinance No. 54-74, passed March 25, 1974; Section 19.8103, as amended by Ordinance No. 1352-75, passed May 3, 1976; Section 19.8105, as amended by Ordinance No. 1347-75, passed May 3, 1976; Section 19.8110, as amended by Ordinance No. 1349-75, passed May 3, 1976, be and the same are hereby amended to read respectively as follows:**

**Section 19.2102. Failure to Report a Crime or Knowledge of Death.**

(a) No person, knowing that a felony has been or is being committed, shall knowingly fail to report such information to law enforcement authorities.

(b) No physician, limited practitioner, nurse or person giving aid to a sick or injured person, shall negligently fail to report to law enforcement authorities any gunshot or stab wound treated or observed by him, or any serious physical harm to persons which he knows or has reasonable cause to believe resulted from an offense of violence, or any second or third degree burn which was inflicted by an explosion or other incendiary device, or any burn which shows evidence of having been inflicted in a violent, malicious or criminal manner.

(c) No person who discovers the body or acquires the first knowledge of the death of any person shall fail to report such death immediately to any physician known by such person to be treating the deceased for a condition from which death at such time would not be unexpected, or to a law enforcement officer, ambulance service, emergency squad or the County Coroner in the county in which the body is discovered, death is believed to have occurred or knowledge concerning it is obtained.

(d) No person shall fail to provide upon request of the person to whom he has made a report required by subsection (c) hereof, or to any law enforcement officer who has reasonable cause to assert the authority to investigate the circumstances surrounding such death, any facts within his knowledge that may have a bearing on the investigation of such death.

(e) Subsection (a) or (d) hereof does not require disclosure of information, when any of the following applies:



(1) The information is privileged by reason of the relationship between attorney and client, doctor and patient, licensed psychologist or licensed school psychologist and client, priest and penitent, or husband and wife.

(2) The information would tend to incriminate a member of the actor's immediate family.

(3) Disclosure of the information would amount to revealing a news source privileged under Ohio R. C. 2739.04 or 2739.12.

(4) Disclosure of the information would amount to disclosure by an ordained clergyman of an organized religious body of confidential communication made to him in his capacity as such by a person seeking his aid or counsel.

(5) Disclosure would amount to revealing information acquired by the actor in the course of his duties in connection with a bona fide program of treatment or services for drug dependent persons or persons in danger of drug dependence, which program is maintained or conducted by a hospital, clinic, person, agency or organization registered pursuant to Ohio R. C. 5122.61.

(f) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence.

(g) Whoever violates subsection (a) or (b) hereof is guilty of failure to report a crime. Violation of subsection (a) hereof is a misdemeanor of the fourth degree. Violation of subsection (b) hereof is a misdemeanor of the second degree.

(h) Whoever violates subsection (c) or (d) hereof is guilty of failure to report knowledge of a death, a misdemeanor of the fourth degree. (ORC 2921.22).

#### Section 19.5105, Criminal Mischief.

(a) No person shall:

(1) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with the property of another;

(2) With purpose to interfere with the use or enjoyment of property of another employ a tear gas device, stink bomb, smoke generator or other device releasing a substance which is harmful or offensive to persons exposed, or which tends to cause public alarm;

(3) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with a bench mark, triangulation station, boundary marker or other survey station, monument or marker;

(4) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with any safety device, the property of another, or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose.

(b) As used in this section, "safety device" means any fire extinguisher, fire hose or fire axe, or any fire escape, emergency exit or emergency escape equipment, or any life line, life-saving ring, life preserver or life boat or raft, or any alarm, light, flare, signal, sign or notice intended to warn of danger or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing sign, signal or gate, or any first aid or survival equip-

ment, or any other device, apparatus, or equipment intended for protecting or preserving the safety of person or property.

(c) Whoever violates this section is guilty of criminal mischief, a misdemeanor of the third degree. If violation of this section creates a risk of physical harm to any person, criminal mischief is a misdemeanor of the first degree. (ORC 2909.07).

#### Section 10.5123, Motor Vehicle Trespass.

(a) No person by force, stealth or deception shall trespass in or attempt to trespass in a locked motor vehicle or any locked compartment of any motor vehicle with purpose to commit any theft offense.

(b) No person shall knowingly enter into or upon a motor vehicle, motorcycle or other motor-propelled vehicle without the consent of the owner or person authorized to give consent.

(c) Whoever violates this section is guilty of motor vehicle trespass. Violation of subsection (a) hereof is a misdemeanor of the first degree and violation of subsection (b) hereof is a minor misdemeanor.

#### Section 18.7104, Soliciting or Receiving Improper Compensation.

(a) No public servant shall knowingly do either of the following:

(1) Solicit or receive any compensation or fee other than as allowed by law, to perform his official duties;

(2) Solicit or receive greater fees or costs than are allowed by law to perform his official duties.

(b) No public servant for his own personal use and no person for his own personal use or for the personal use of a public servant or party official, shall solicit or accept anything of value in consideration of either of the following:

(1) Appointing or securing, maintaining or renewing the appointment of any person to any public office, employment or agency;

(2) Preferring or maintaining the status of any public employee with respect to his compensation, duties, placement, location, promotion or other material aspects of his employment.

(c) No person for the benefit of a political party or a campaign committee, as defined in Ohio R. C. 3517.01 shall coerce any contribution, as defined in Ohio R. C. 3517.01, in consideration of either of the following:

(1) Appointing or securing, maintaining or renewing the appointment of any person to any public office, employment or agency;

(2) Preferring or maintaining the status of any public employee with respect to his compensation, duties, placement, location, promotion or other material aspects of his employment.

(d) Whoever violates this section is guilty of soliciting improper compensation, a misdemeanor of the first degree.

(e) A public servant who is convicted of a violation of this section is disqualified from holding any public office, employment or position of trust in this State for a period of seven years from the date of conviction.

(f) Nothing in subsection (b) or (c) hereof shall prohibit any person from voluntarily contributing to such public servant, party official, political party, campaign committee or political committee. (ORC 2921.43)

#### Section 19.8103, Assault.

(a) No person shall knowingly cause or attempt to cause physical harm to another.

(b) No person shall recklessly cause serious physical harm to another.

(c) Whoever violates this section is guilty of assault, a misdemeanor of the first degree. (ORC 2903.13)

#### Section 19.8105, Aggravated Menace.

(a) No person shall knowingly cause another to believe that offender will cause serious physical harm to the person or property such other person or member of immediate family.

(b) Whoever violates this section is guilty of aggravated menace, a misdemeanor of the first degree. (ORC 2903.21)

#### Section 19.8110, Assault on a Law Enforcement Officer.

(a) No person shall knowingly assault or cause or attempt to cause physical harm to a law enforcement officer or fireman in the law performance of his official duties.

(b) Whoever violates this section is guilty of assault upon a law enforcement officer or fireman, a misdemeanor of the first degree.

#### Section 19.10105, Misconduct at Emergency.

(a) No person shall knowingly:

(1) Hinder the lawful operation of any law enforcement officer, fireman, rescuer, medical person or other authorized person, engaged in his duties at the scene of a fire, accident, disaster, riot or emergency any kind.

(2) Fail to obey the lawful order of any law enforcement officer engaged in his duties at the scene or in connection with a fire, accident, disaster, riot or emergency any kind.

(b) Nothing in this section shall be construed to limit access or der information to any news media representative in the lawful exercise of his duties.

(c) Whoever violates this section is guilty of misconduct at an emergency, a minor misdemeanor. If violation of this section creates risk of physical harm to person or property, misconduct at an emergency is a misdemeanor of the fourth degree. (ORC 2917.19)

Section 2. That existing Sections 19.2102, 19.5105, 19.5123, 19.710, 19.8103, 19.8105, 19.8110 and 19.1010 of The Codified Ordinances of the City of Cleveland, be and the same are hereby repealed. That existing Sections 9.051002, 19.0109, 13.0110, 13.0111, 13.0729, 13.0308, 19.0910, 19.0912-13.0915, inclusive; 19.0922, 13.0929, 13.092501, 19.0927, 19.0931, 13.09501, 19.0941, 13.0942, 13.0943, 19.0944, 19.0950, 13.0951, 19.0955, 13.1114, 13.1115, 13.1123, 19.112501, 19.112502, 13.1129, 13.1313, 13.1318, 19.1322, 13.1323, 13.1390, 19.1393, 13.1501-14.1515, inclusive; 13.190102, 13.190108, 13.1918, 13.1919, 13.192101, 13.1929, 13.1924, 13.2123, 13.2134, 13.2507, be and the same are hereby repealed.

Section 3. That The Codified Ordinances of the City of Cleveland be and the same are hereby supplemented by enacting Sections 19.2108, 19.2109, 19.2110, 19.4107, 19.4108, 19.4109, 19.5128, 19.5129, 19.5130, 19.5131, 19.5132, 19.5133, 19.5134, 19.5135, 19.5136, 19.5137, 19.5138, 19.6105, 19.6106, 19.6107, 19.6108, 19.6109, 19.9113, 19.10109, 19.10110,



19.10111, 19.10112, 19.10113, 19.10114, 19.10115, 19.10116, 19.10117, 19.13112, 19.13113, 19.13114, 19.13115, 19.13116, 19.13117, 19.13118, 19.13119, and 19.13120 thereof, to read respectively as follows:

**Section 19.2108. Copying Police and Fire Uniforms.**

(a) No person not a member of the Police or Fire Division shall wear a uniform, cap, badge or buttons similar to, or in imitation of the official uniform, cap, badge or buttons at the time in use by members of the Police and Fire Divisions. This section does not apply to guards at the Cleveland House of Correction, or other City inspectors, while such guards or inspectors are engaged in the performance of their respective official duties.

(b) No person, firm or corporation desiring to provide special police, watchmen, or detective service, either for itself or for hire to others, shall use a distinctive uniform, cap, badge or buttons, to be worn by such person or any employees engaged for such purpose, until the form, design and color thereof have first been submitted to and approved by the Director of Public Safety, and a record sufficient to identify the users thereof has been made by the Director.

(c) Whoever violates this section is guilty of copying official uniforms, a minor misdemeanor.

**Section 19.2109. Giving False Information to Enforcement Agents.**

(a) No person shall knowingly give or assist in giving any false or fictitious information relative to the name, address or the date of birth of any person to any duly authorized enforcement agent.

(b) Whoever violates this section is guilty of giving false information to enforcement agents, a misdemeanor of the first degree.

**Section 19.2110. Operation of Telephone Alarm Systems.**

(a) No person, firm or corporation shall install, operate or maintain a telephonic alarm system which automatically transmits a signal, message or warning to any City of Cleveland, Division of Fire or Division of Police telephone line.

(b) It shall be the responsibility of any person, firm or corporation which has installed or sold existing alarms to give to the buyer or subscriber of such alarm a written notice of the provisions of this section.

(c) For the purpose of this section, "telephone alarm system" means any mechanism, equipment or device which is designed to operate automatically through the use of public telephone facilities to transmit a signal, message or warning to another location.

(d) Whoever violates this section is guilty of unlawful telephone alarm system operation, a misdemeanor of the first degree.

**Section 19.4107. Seizure of Gambling Devices; Forcible Entry; Visiting Gambling Place.**

(a) Any police officer shall seize or direct to be seized, any instrument, device or thing used for the purpose of gambling, or on, by or with which money or other articles may be lost or won. All such instruments, devices or things shall be disposed of under the direction of the Police Chief upon it being adjudged by the Court that such instruments, devices or things were

used, kept or intended for the purpose of gambling.

(b) If the owner or lessee or any person within any gambling house or room refuses to admit any police officer to enter the same, it shall be lawful for such officer to enter such premises by force, by breaking the doors or otherwise and to arrest, with or without warrant, all persons found therein. Any persons found therein shall be considered to have visited such place for the purpose of gambling and shall be guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for a second or subsequent offense.

**Section 19.4108. Possession of Evidence of Wager or Policy.**

(a) No person shall have in his possession, or in his custody, or under his control, any ticket, check, writing, slip, paper or document, which represents or is a memorandum of, or is evidence of, or is intended to be used as a memorandum or evidence of, or which is designed or intended to be used in the process of making, settling, paying, registering, evidencing, or recording the result of a trial or contest of skill, speed or power of endurance of man or beast, or an interest in any lottery, policy or scheme of chance. This section does not prohibit possession of any item in connection with gambling conducted or lawfully authorized by the State of Ohio.

(b) Whoever violates this section is guilty of possessing evidence of a wager or policy, a misdemeanor of the third degree.

**Section 19.4109. Permitting Unlawful Coin Machines.**

(a) No person shall exhibit, operate or permit the operation of any machine, device or instrument, whether or not it purports to vend or distribute merchandise or to furnish recreation or amusement, which is operated by the insertion of any token, slug or disc, or exhibit, operate or permit the operation of any machine, device, or instrument which is operated by the insertion of any coin, whether such machine, device or instrument purports to vend or distribute merchandise or to furnish recreation or amusement, which as a result of such operation discharges one or more coins, tokens, slugs or discs, or other memorandum of the result of operation which makes it possible for one user to receive more value than another user inserting a similar coin.

(b) Whoever violates this section is guilty of permitting unlawful coin machines, a misdemeanor of the third degree.

**Section 19.5128. Illegal Sale or Possession of Master Vehicle Keys.**

(a) No person shall sell or otherwise dispose of a master key designed to fit more than one motor vehicle, knowing or having reasonable cause to believe such key will be used to commit a crime.

No person shall buy, receive or have in his possession a master key designed to fit more than one motor vehicle, for the purpose of using such key to commit a crime. (ORC 4549.042)

(b) Whoever violates this section is guilty of illegal sale or possession of master vehicle keys, a misdemeanor of the first degree on a first offense. (ORC 4549.59(C))

**Section 19.5129. War Memorial Vandalism.**

(a) No person shall willfully or maliciously defile, mar, injure, deface, mutilate or sit or walk upon any portion of, or deposit or throw any object into or at the War Memorial Fountain.

(b) Whoever violates this section is guilty of War Memorial Vandalism, a misdemeanor of the first degree.

**Section 19.5130. Spray Painting Property.**

(a) No person shall intentionally, maliciously or recklessly destroy, damage or deface in any way any public or private property by the use of spray paint or any other paint or any other similar substance. Public or private property shall include the following:

(1) Public or private buildings, including sidewalks about such grounds and all appurtenances thereto, fences or trees;

(2) Public street lights, fire hydrants, pumps, fountains, inlets, manholes or sewer ventilators;

(3) Telephone or telegraph wires or electric wires of any kind or the poles sustaining or attaching thereto;

(4) Statues, monuments or plaques;

(5) Official notices or signs posted by the State of Ohio or by the City or any other public agency.

(b) Whoever violates this section is guilty of spray painting property, a misdemeanor of the first degree.

**Section 19.5131. Defrauding Library.**

(a) No person shall willfully or negligently detain or fail to return to a public library any book, magazine, pamphlet, manuscript, picture, clipping or other property belonging to such library, or pay the reasonable value thereof, within thirty days from the date of the posting by registered mail of a notice addressed to such person at the last address furnished the public library. Such notice may be given at any time after the date on which such person should have returned the loaned property.

(b) No person shall give a fictitious or incorrect name or address at any public library in order to obtain possession or use of any book, pamphlet, magazine, newspaper, clipping or picture, the property of such library or practice any deceit to conceal or mislead in respect to identity or address or place of employment.

(c) Whoever violates this section is guilty of defrauding a library, a minor misdemeanor.

**Section 19.5132. Trespass on RTA Property.**

(a) No person shall enter upon any portion of the right of way, owned or leased by the Regional Transit Authority or any other transit system, upon which are located rail tracks of any rapid transit system without proper authority.

(b) Whoever violates this section is guilty of trespass on RTA property, a misdemeanor of the fourth degree.

**Section 19.5133. Defrauding Restaurants.**

(a) No person, with intent to defraud, shall obtain food in any restaurant or other eating place licensed by the City.



(b) Whoever violates this section is guilty of defrauding a restaurant, a misdemeanor of the first degree.

**Section 19.5134. Defrauding Fire and Damage Victims.**

(a) No person, firm or corporation, or the employee or agent thereof, shall falsely identify himself in any manner to the owner or tenant of any premises damaged by fire, hurricane, tornado or other disaster or accident as an officer or employee of the City, or falsely represent in any manner to such owner or tenant the contents of laws of the State of Ohio or The Codified Ordinances of the City of Cleveland as an inducement to obtain the signature of such owner or tenant upon a contract for the repair of the damaged premises.

(b) Whoever violates this section is guilty of defrauding fire and damage victims, a misdemeanor of the first degree.

**Section 19.5135. Defacing and Removing Signs.**

(a) No person shall tear down, remove, destroy, cover up, mutilate, obliterate or otherwise injure any proclamation or official notice, any sign or handbill, notice, poster or advertisement containing a notice of any meeting, lecture, theater, show, play or concert, or any public or private sale of property until after they have served the purpose for which they were put up. This section does not prevent any person owning or controlling billboards used for advertising purposes from changing or removing advertisements or notices which he may post thereon, or prohibit any owner from removing advertisements or notices placed or remaining on his property without his consent.

(b) Whoever violates this section is guilty of defacing and removing signs, a misdemeanor of the fourth degree.

**Section 19.5136. Posting on Private Property Without Consent.**

(a) No person shall stick or post any advertisement, poster, sign or handbill or placard of any description upon any private building, or upon any tree, post, fence, billboard, or any other structure or thing the property of another without permission of the occupant or owner of the same, nor paint, mark, write, print or impress, or in any manner attach any notice or advertisement or the name of any commodity or thing or any trade mark, symbol or figure of any kind upon anything whatever the property of another without first obtaining permission of the owner of such thing.

(b) Whoever violates this section is guilty of posting on private property without consent, a minor misdemeanor.

**Section 19.5137. Advertising on Public Property Prohibited; Removal.**

(a) No person shall stick, post or attach any advertisement, poster, sign, handbill or placard of any kind or description upon any telegraph, telephone, railway or electric light pole within the limits of the City, or upon any bridge, public building, voting booth, flagging, curbstone, walk, step stone or sidewalk, or write, print or impress or in any manner attach any notice or any advertisement of any kind upon any public building, bridge, voting booth, flagging, curbstone, step

stone or sidewalk, the property of the City or within the street lines of the City, or over which the City or Council has the care, custody or control, except such as may be required by the laws of the State or City ordinances.

(b) All advertisements, posters, signs, handbills, placards or notices in violation of this section shall be removed by the department or division, which has the care, custody, or control of the City property where such violation is found. It shall be the duty and power of the directors of the departments and of the commissioners of the divisions of the City to carry out the mandate of the preceding sentence with regard to City property under their care, custody or control.

(c) Whoever violates this section is guilty of unauthorized advertising on public property, a minor misdemeanor.

**Section 19.5138. Removal of Political Signs.**

(a) No person shall place or cause to be placed or permit to remain upon any public property, or private property which is vacant or unoccupied or any other private property any unauthorized poster, placard or sign advertising, publicizing or containing thereon information concerning any event, organization or candidate for office.

(b) The Director of Public Safety shall cause a notice to be served upon any person listed as a sponsor, chairman or secretary on such poster, placard or sign at the address listed thereon or at the usual address of the organization or organizations listed on such poster, placard or sign. Notice shall contain the location of the unauthorized sign and shall order the removal of the sign within forty-eight hours of the receipt of the notice.

(c) Any person failing to comply with the order of the Director is guilty of unlawful posting of political advertising, a minor misdemeanor.

**Section 19.6105. Abandoned Refrigerators and Airtight Containers.**

(a) No person shall abandon, discard, or knowingly permit to remain on premises under his control, in a place accessible to children, any abandoned or discarded icebox, refrigerator or other airtight or semi-airtight container which has a capacity of one and one-half cubic feet or more and an opening of fifty square inches or more and which has a door or lid equipped with hinges, latch or other fastening device capable of securing such door or lid, without rendering such equipment harmless to human life by removing such hinges, latches or other hardware which may cause a person to be confined therein. This section shall not apply to an icebox, refrigerator or other airtight or semi-airtight container located in that part of a building occupied by a dealer, warehouseman or repairman. (ORC 3767.29)

(b) Whoever violates this section is guilty of abandoning, a misdemeanor of the fourth degree.

**Section 19.6106. Adulterating or Furnishing Adulterated Foods or Confection.**

(a) No person shall do either of the following, knowing or having reasonable cause to believe that any person may suffer physical harm or

be seriously inconvenienced or annoyed thereby:

(1) Place a pin, needle, blade, glass, laxative, drug or other harmful or hazardous object or substance in any food or confection;

(2) Furnish to any person food or confection which has adulterated in violation of section (a)(1) hereof. (ORC 3716.)

(b) Whoever violates this section is guilty of adulterating food, a misdemeanor of the first degree. (ORC 3716.99(C))

**Section 19.6107. Entertaining Distracting Traffic.**

(a) No owner or person in charge of any premises where entertainment is provided or public display is permitted shall allow any person to entertain or perform or to be in any area located within twenty-five feet of a public right of way, unless such area where the entertainment or performance or display is occurring is located or screened so that the entertainers, performers or dancers are not visible to motorists or motorists using such public right of way.

(b) Whoever violates this section is guilty of permitting entertainment to distract traffic, a misdemeanor of the third degree.

**Section 19.6108. Model Air Operation.**

(a) No person shall operate or cause to be operated, or permit operation of any model airplane, equipped with a gas engine in, on or upon any of the streets, ways or public places within the City. However, permits for the operation of such model aircraft are granted by the Commission on Recreation, which shall be limited to such portions of the public as the Director of Public Property shall designate and equip for purposes. The permit shall be subject to such rules and conditions the Director shall impose, and be subject to immediate revocation for violation of any such rule or condition.

(b) Whoever violates this section is guilty of unlawful model airplane operation, a minor misdemeanor.

**Section 19.6109. Barbed Fences.**

(a) No person shall place or construct or cause to be placed or constructed any barbed wire fence or along any street or public way, or the street or highway of any lot or parcel of land within the City.

(b) Whoever violates this section is guilty of unlawful barbed construction, a minor misdemeanor.

**Section 19.6113. Disorderly Solicitation.**

(a) No person shall accost, solicit or invite another in any public place or in or from any building or vehicle by word, gesture or any other means commit or afford an opportunity to commit fornication, prostitution or do any other immoral act. It shall be unlawful for a known prostitute or person to repeatedly stop or attempt to stop any pedestrian or motor vehicle operator by hailing, whistling, waving of arms or any other gesture in or upon any public walk, street, alley, park or public place. No person shall engage in fornication or prostitution as a customer. The term "customer" means



one who engages the services of another.

(b) Any person violating the provisions of this section shall be deemed a disorderly person and shall upon conviction be punished as herein provided. For purposes of this section "a known prostitute or pandarer" is any female or male who, within two years from the date of arrest for violation of this section has been convicted of prostitution, accosting and soliciting, receiving and admitting, aiding and abetting, maintaining and operating or pandering as those crimes are defined by the laws of this State or the City.

(c) It shall be the duty of any police officer to arrest without process any person violating any provision of this section.

(d) Whoever violates this section is guilty of disorderly solicitation, a misdemeanor of the third degree. At least three days imprisonment is mandatory under this section, notwithstanding any other section of this Code.

#### Section 19.10109. Unlawful Congregation.

(a) No person shall congregate with others on the sidewalk, street corner or within the parks or public grounds, with intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned by the serious annoyance to pedestrians or by threatening, insulting or abusive conduct, and refuses to move on when ordered by a police officer.

(b) Whoever violates this section is guilty of unlawful congregation, a minor misdemeanor.

#### Section 19.10110. Unnecessary Noises.

(a) No person shall make, continue or cause to be made within the City any unreasonably loud, disturbing and unnecessary noise, or noises of such character, intensity and duration as to be detrimental to the life and health of any individual.

(b) The following are declared to be loud, disturbing and unnecessary noises in violation of this section, but such enumeration is not deemed to be exclusive:

(1) The sounding of any horn, bell or other signal or warning device on any motor vehicle, motorcycle, bus or other vehicle, except as a danger or warning signal.

(2) The playing of any radio, phonograph or any musical instrument in such a manner or with such volume, particularly between the hours of 11:00 p. m. and 7:00 a. m., as to annoy or disturb the quiet, comfort or repose of persons in the same or any other residence where such noise can be distinctly heard at a distance of more than 100 feet from its source.

(3) The keeping of any animal or bird which by causing frequent or long continued noise disturbs the comfort and repose of any person in the vicinity, where such noise can be distinctly heard at a distance of more than 100 feet from its source.

(4) The use of any motorcycle, or vehicle as out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, rattling or other noise.

(5) The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger, or the use of steam under pressure for cleaning purposes in any establishment be-

tween the hours of 10:00 p. m. and 7:00 a. m., when the windows of such establishment are open.

(6) The unreasonable discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motor boat engine.

(7) The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced.

(8) The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

(9) The sounding of any bell or gong attached to any building or premises which disturbs the quiet and repose of persons in the vicinity thereof.

(10) The use of any drum, loud speaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale or display of merchandise, except where a specific permit is received from the Director of Public Safety pursuant to a written application setting forth the necessity and urgency of such permit, which permit shall only be issued when the Director is satisfied that the issuance will not result in any unnecessary and unseemly noise to the detriment of the health or comfort of any individual.

(c) Whoever violates this section is guilty of making unnecessary noise, a minor misdemeanor.

#### Section 19.10111. Noises Near Hospital, Church, School or Court.

(a) No person, by himself or by the operation of any instrument, device, agency or vehicle shall make any unnecessary or unseemly noise within 150 feet of any portion of the grounds and premises on which is located a hospital or other institution reserved for the sick, aged or infirm, or within 150 feet of any school, courthouse, church or building in which religious services are held, during school hours or hours of public worship, or hours of holding court respectively. The area within 150 feet of a hospital, school, courthouse or church shall be officially known as a "zone of quiet" and the Director of Public Safety shall place signs within such zones of quiet calling attention to the prohibition against unnecessary noises.

(b) Whoever violates this section is guilty of making unnecessary noise, a minor misdemeanor.

#### Section 19.10112. Mufflers on Engines.

(a) No person shall, as the owner, agent, employee, operator or person in charge, use or operate any gas or gasoline engine within the City unless such gas or gasoline engine is equipped with a muffler.

(b) Whoever violates this section is guilty of unlawful engine operation, a minor misdemeanor.

#### Section 19.10113. Threatening or Harassing Phone Calls.

(a) No person shall, while communicating with any other person over a telephone, threaten to do bodily harm or use or address to such other person any words or language of a lewd, lascivious or indecent character, nature or connotation for the sole purpose of annoying such other person; nor shall any person telephone any other person repeatedly or cause any person to be telephoned repeatedly for the

sole purpose of harassing or molesting such other person or his family.

Any use, communication or act prohibited by this section may be deemed to have occurred or to have been committed at either the place at which the telephone call was made or was received. (ORC 4931.31)

(b) Whoever violates this section is guilty of threatening or harassing phone calls, a misdemeanor of the first degree.

#### Section 19.10114. Public Intoxication.

(a) No person shall be in a state of public intoxication or, being intoxicated, disturb the peace, good order and quiet of the City.

(b) Whoever violates this section is guilty of public intoxication, a minor misdemeanor.

#### Section 19.10115. Minor's Curfew.

(a) No minor twelve years of age or under shall be upon the streets or sidewalks or in a park or any other public place during the period from darkness to dawn, nor shall any minor thirteen to sixteen years of age, inclusive, be upon the streets or sidewalks or in a park or any other public place between the hours of 11:00 p. m. and 5:00 a. m., nor shall any minor seventeen years of age or under be upon the streets or sidewalks or in a park or any other public place between the hours of midnight and 5:00 a. m. unless accompanied by a parent, guardian or some responsible person over the age of twenty-one years, or a member of his family eighteen years or older. No parent or guardian of any minor twelve years of age or under shall allow such child to be upon the streets or sidewalks or in a park or any other public place during the period from darkness to dawn, nor shall any parent or guardian of any minor thirteen to sixteen years of age, inclusive, allow such child to be upon the streets or sidewalks or in a park or any other public place between the hours of 11:00 p. m. and 5:00 a. m. nor shall any parent of any minor seventeen years of age or under allow such minor to be upon the streets or sidewalks or in a park or any other public place between the hours of midnight and 5:00 a. m. unless accompanied by his parent, guardian or some responsible person over the age of twenty-one years or a member of his family eighteen years or older.

(b) Any parent or guardian who violates this section is guilty of permitting curfew violation, a minor misdemeanor.

#### Section 19.10116. Employment of Strikebreakers.

(a) No person, firm or corporation directly involved in a labor dispute shall wilfully and knowingly employ, or contract or arrange for the recruitment or procuring for employment, any person who customarily and repeatedly offers himself for employment for the duration of a strike or lockout in place of employees involved in a strike or lockout.

(b) No person who customarily and repeatedly offers himself for employment in place of employees involved in a labor dispute shall accept or offer to accept employment in place of an employee involved in a labor dispute.

(c) No person, firm or corporation, not directly involved in a labor strike or lockout, shall recruit any person for employment, or secure or offer to secure for any person any



employment, when the purpose of such recruiting, securing or offering to secure, employment is to have such person take the place in employment of employees in an industry where a labor strike or lockout exists.

(d) Whoever violates this section is guilty of unlawful strikebreaker employment, a misdemeanor of the first degree.

#### Section 19.10117. Prohibited Use of Mounted Police in Labor Dispute.

(a) No City official or officer of the Department of Public Safety or the Division of Police shall order or authorize the use of mounted police officers for any law enforcement activity in connection with or related to a labor dispute nor shall any mounted police officer while on duty as a mounted police officer use his mount for any law enforcement activity connected with or related to a labor dispute.

(b) Any person violating the provisions of this section shall be subject to departmental disciplinary action.

#### Section 19.13112. Record of Ammunition Sales.

(a) No person, firm or corporation shall sell, give, barter or otherwise dispose of any ammunition which is capable of use in any pistol, revolver or other weapon of like character which can be concealed on the person, unless such transaction is entered in a book by the person making such sale, gift, exchange or other disposition, together with the address of the recipient and the date and the description of the ammunition sufficient to identify it. Such entry shall be signed by the recipient and witnessed by the person required to make such record. A report shall be made to the Chief of Police within thirty days of each transaction on such forms as he may prescribe.

Satisfactory proof of identity shall be required of the recipient by the person making such sale, gift, exchange or other disposition of ammunition and the means or method of such identification shall be recorded in the book required to be kept.

(b) Whoever violates this section is guilty of unlawful ammunition disposal, a misdemeanor of the third degree.

#### Section 19.13113. Sale of Long Bladed Pocket Knives.

(a) No person shall give or sell a pocket knife having a blade of two and one-half inches in length or longer, without first requiring a purchaser to properly identify himself and register in a book kept for such purpose giving his name, address and age. The register shall be subject to inspection by any officer of the law upon demand.

(b) No person shall give, sell or exhibit for sale to a minor a knife having a blade two and one-half inches in length or longer.

(c) It shall be the duty of every person, firm or corporation dealing in the sale of knives to post a copy of this section in a conspicuous place in such place of business.

(d) Whoever violates this section is guilty of unlawful pocket knife sale, a misdemeanor of the third degree.

#### Section 19.13114. Sale or Possession of Sling Shots and Pea Shooters.

(a) No person shall carry on or about his person, sell or exhibit for sale a sling shot, commonly consisting of a forked stick with an

elastic band attached, or a piece of elastic such as rubber, with a bag attached for shooting of small projectiles.

(b) No person shall carry on or about his person, sell or exhibit for sale a pea shooter, commonly consisting of a hollow cylindrical object made of one or more materials through which an object may be propelled by blowing air through the same.

(c) Whoever violates this section is guilty of unlawful sale or possession of sling shots or pea shooters, a minor misdemeanor.

#### Section 19.13115. Unlawful Display of Weapons.

(a) No person, firm or corporation shall exhibit for sale in show cases or show windows any revolvers, daggers, stilettos, brass or iron signs, posters, cartoons or display cards, suggesting the sale of such weapons.

(b) Whoever violates this section is guilty of unlawful display of weapons, a misdemeanor of the first degree.

#### Section 19.13116. Possession or Use of Stench Bombs.

(a) No person shall possess or use a tear gas device, stink bomb, smoke generator or other device releasing a substance which is harmful or offensive to persons exposed or which tends to cause public alarm. This section does not apply to law enforcement agents in the discharge of official duty.

(b) Whoever violates this section is guilty of unlawful possession or use of stench bombs, a misdemeanor of the first degree.

#### Section 19.13117. Tear Gas Guns.

(a) No person not being a law enforcement officer acting in line of duty or a person engaged in repelling robbers, thieves, murders or other law violators in the defense of business, shall aim and discharge at any person a weapon or device of any kind which impels or discharges compressed air, spring release or other means a projectile containing any liquid or gas which is dangerous to the safety or health of such person, or which otherwise discharges any such liquid or gas upon the person of another.

(b) Whoever violates this section is guilty of unlawful tear gas gun use, a misdemeanor of the first degree.

#### Section 19.13118. Containers of Combustibles.

(a) No person shall make, use, have on or about his person or under his control any device or container, having a combustible material or substance which can be used as a means of igniting such device or container attached thereto as a fuse and containing therein any flammable or combustible material or substance, which device or container can be used as a firebomb by igniting the fuse or igniting the container and breaking the device or throwing such device or container against or upon an object. However, this section does not apply to any person using, making or having session or under his control in the course of a legitimate business, employment or occupation.

(b) Whoever violates this section is guilty of unlawful manufacture, possession or use of combustible container, a misdemeanor of the first degree.

#### Section 19.13119. Discharging Firearms.

(a) No person shall discharge any firearm except in self-defense or law enforcement agents in the discharge of official duty.

(b) Whoever violates this section is guilty of unlawful firearm discharge, a misdemeanor of the first degree.

#### Section 19.13120. Jump Traps.

(a) No person shall use or permit the use within the City of any steel jump animal trap or similar device with spring activated jaws of the type commonly used for the trapping of fur bearing animals, which is capable of inflicting cruelty upon dogs or cats or which constitutes a hazard to small children.

(b) Whoever violates this section is guilty of unlawful jump trap use, a misdemeanor of the third degree.

Section 4. That The Codified Ordinances of the City of Cleveland be and the same are hereby supplemented by enacting new Chapter 19, Sections 19.15101, 19.15102, 19.15103, 19.15104, 19.15105, 19.15106, 19.15107, 19.15108, and 19.15109 thereof, to read respectively as follows:

### CHAPTER 15

#### Animals and Fowl

##### Section 19.15101. Animals at Large.

(a) No person being the owner of having charge of any horses, cattle, sheep, goats, geese, ducks, turkeys, chicken or other fowl or animals shall permit them to run at large upon any public place, unenclosed lands or the premises of another.

(b) Whoever violates this section is guilty of permitting animals at large, a minor misdemeanor.

##### Section 19.15102. Unmuzzled Dogs at Large: Duty to Report.

(a) No person shall permit his unmuzzled dog at any time to be on a public street, highway, park, building or other public place except when held securely in leash by the owner thereof or another responsible person.

(b) It shall be the duty of every City employee while in the performance of his official duties, who has in his possession or under his control any radio transmitter and receiver, telephone or other device ordinarily used for two-way communication, to immediately report to police officers or dog wardens of the City the sighting of any unmuzzled dogs found to be in a public place in violation of this section. The employee shall report the time, place, date and description of the dog, together with the employee's name.

(c) Whoever violates this section is guilty of permitting unmuzzled dogs at large, a minor misdemeanor.

##### Section 19.15103. Impounding Dogs.

It shall be the duty of the police officers and dog wardens of the City when any unmuzzled dog is found at large in the public streets, highways, parks, buildings or other public places in violation of Section 19.15102 to take up and impound such dog in a City pound. No dog shall be released from the pound until the cost of taking up, impounding and keeping such dog is paid to the City, in an amount to be fixed by or under authority of the Director of Public Safety, which in no event shall be less than seven dollars and fifty cents (\$7.50). Any dog unredeemed after three days from the time of being taken and impounded may be destroyed or other-



wise disposed of upon the order of the Director; but if such dog has a license number an effort shall be made to locate the owner immediately upon taking up such dog. The payment of charges for redeeming a dog from a pound shall not be construed to exempt the owner of such dog from prosecution under section 19.16102.

#### Section 19.15104. Annual Registration of Dogs; Tags Required.

(a) Except for guide dogs registered under Ohio R. C. 955.011 and dogs kept by an institution or organization for teaching and research purposes under Ohio R. C. 955.16, no person shall own, keep or harbor a dog more than three months of age without annually registering such dog with the County Auditor. Failure of any dog at any time to wear a valid registration tag shall be prima-facie evidence of lack of registration and subject such dog to impounding and disposition as provided by Ohio R. C. 955.16.

(b) Whoever violates this section is guilty of keeping an unregistered dog, a minor misdemeanor.

#### Section 19.15105. Abandoning Animals.

(a) No owner or keeper of a dog, cat or other domestic animal shall abandon such animal. (ORC 959.01)

(b) Whoever violates this section is guilty of abandoning animals, a minor misdemeanor. (ORC 959.99(A))

#### Section 19.15106. Killing or Injuring Animals.

(a) No person shall maliciously, or wilfully, and without the consent of the owner, kill or injure a farm animal, dog, cat or other domestic animal that is the property of another. This section does not apply to a licensed veterinarian acting in an official capacity. (ORC 959.02)

(b) Whoever violates this section, if the value of the animal killed or the injury done amounts to less than one hundred fifty dollars (\$150.00), is guilty of a misdemeanor of the second degree; if the value of the animal killed or the injury done amounts to one hundred fifty dollars (\$150.00) or more, such person is guilty of a misdemeanor of the first degree. (ORC 959.99(B))

#### Section 19.15107. Poisoning Animals.

(a) No person shall maliciously, or wilfully, and without the consent of the owner, administer poison, except a licensed veterinarian acting in such capacity, to a farm animal, dog, cat, poultry or other domestic animal that is the property of another; and no person shall, wilfully and without the consent of the owner, place any poisoned food where it may be easily found and eaten by any of such animals, either upon his own lands or the lands of another. (ORC 959.03)

(b) Whoever violates this section is guilty of poisoning animals, a misdemeanor of the fourth degree. (ORC 959.99(C))

#### Section 19.15108. Cruelty to Animals.

(a) No person shall torture an animal, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during such confinement with a sufficient quantity of good wholesome food and water. No person shall carry or convey an animal in a cruel or inhuman manner or keep animals in an enclosure without wholesome exercise and changes of air, or feed animals food

that is adulterated or unwholesome, or work or abandon to die an old, maimed, sick, infirm or diseased animal. (ORC 959.13)

(b) Whoever violates this section is guilty of cruelty to animals, a misdemeanor of the second degree. (ORC 959.99(D))

#### Section 19.16109. Coloring Rabbits or Baby Poultry Sale or Display of Poultry.

(a) No person shall dye or otherwise color any rabbit or baby poultry, including, but not limited to, chicks and ducklings. No person shall sell, offer for sale, expose for sale, raffia or give away any rabbit or baby poultry which has been dyed or otherwise colored. No poultry younger than four weeks of age may be sold, given away or otherwise distributed to any person in lots of less than six. Stores, shops, vendors and others offering young poultry for sale or other distribution shall provide and operate brooders or other heating devices that may be necessary to maintain poultry in good health, and shall keep adequate food and water available to the poultry at all times. (ORC 955.62)

(b) Whoever violates this section is guilty of unlawful poultry sale or keeping, a minor misdemeanor.

Section 5. That The Codified Ordinances of the City of Cleveland be and the same are hereby supplemented by enacting new Chapter 16, Sections 19.16101, 19.16102, 19.16103, 19.16104, 19.16105, 19.16106, 19.16107, 19.16108, 19.16109, and 19.16110 thereof, to read respectively as follows:

### CHAPTER 16

#### Liquor Control

##### Section 19.16101. Definitions.

As used in the Codified Ordinances:

(a) "Alcohol" means ethyl alcohol, whether rectified or diluted with water or not, whatever its origin may be, and includes synthetic ethyl alcohol. Such term excludes denatured alcohol and wood alcohol.

(b) "Intoxicating liquor" and "liquor" include all liquids and compounds containing more than three and two-tenths percent of alcohol by weight which are fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever name called and whether or not the same are medicated, proprietary or patented. Such phrase includes alcohol and all solids and confections which contain any alcohol.

(c) "Beer" includes all malt beverages containing one-half of one percent or more of alcohol by weight but not more than three and two-tenths percent of alcohol by weight.

(d) "Person" includes firms and corporations. (ORC 4301.01)

##### Section 19.16102. Sales to Minors; Prohibitions and Misrepresentations.

(a) No person shall sell intoxicating liquor to a person under the age of twenty-one years or sell beer to a person under the age of eighteen, or buy intoxicating liquor for, or furnish it to, a person under the age of twenty-one years, or buy beer for or furnish it to a person under the age of eighteen, unless given by a physician in the regular line of his practice, or by a parent or legal guardian.

In proceedings before the Liquor Control Commission, no permit holder, his employee or agent charged with a violation of this section shall, for the same offense, be charged

with a violation of Ohio R. C. 4301.22 (A). (ORC 4301.69)

(b) No person under the age of twenty-one years shall purchase intoxicating liquor, nor shall a person under the age of eighteen purchase beer. (ORC 4301.63)

(c) No person under the age of eighteen years shall order, pay for, share the cost of or attempt to purchase any beer or intoxicating liquor, or consume any beer or intoxicating liquor, either from a sealed or unsealed container or by the glass or by the drink, in any public place except as provided in subsection (a) hereof. (ORC 4301.631)

(d) No person under the age of twenty-one years shall order, pay for, share the cost of, or attempt to purchase any intoxicating liquor, or consume any intoxicating liquor, either from a sealed or unsealed container or by the glass or by the drink, except as provided in subsection (a) hereof. (ORC 4301.632)

(e) No person shall knowingly furnish any false information as to the name, age or other identification of any person under twenty-one years of age for the purpose of obtaining or with the intent to obtain, beer or intoxicating liquor for a person under eighteen years of age, or intoxicating liquor for a person under twenty-one years of age, by purchase or as a gift. (ORC 4301.633)

(f) No person shall knowingly show or give false information concerning his name, age or other identification for the purpose of purchasing or otherwise obtaining beer or intoxicating liquor in any place in this State where beer or intoxicating liquor is sold under a permit issued by the Ohio Department of Liquor Control or sold by such Department. (ORC 4301.634)

(g) No person under the age of twenty-one years shall knowingly show or give false information concerning his name, age or other identification for the purpose of purchasing or otherwise obtaining intoxicating liquor in any place in this State where intoxicating liquor is sold under a permit issued by the Ohio Department of Liquor Control or sold by such Department (ORC 4301.635).

(h) Whoever violates subsection (b) hereof is guilty of a minor misdemeanor. Whoever violates any other provision of this section is guilty of a misdemeanor of the first degree, except that a juvenile offender under the age of eighteen years shall be proceeded against as may be appropriate under Ohio R. C. Chapter 2151.

##### Section 19.16103. Sales to Intoxicated Persons.

(a) No person shall sell intoxicating liquor to any individual who habitually drinks intoxicating liquor to excess or to whom the Ohio Department of Liquor Control has, after investigation, determined to prohibit the sale of such intoxicating liquor because of cause shown by the husband, wife, father, mother, brother, sister or any other person dependent upon or in charge of such individual, or of the Mayor.

(b) No person shall sell intoxicating liquor or beer to an intoxicated person (ORC 4301.22).

(c) Whoever violates this section is guilty of a misdemeanor of the third degree.

##### Section 19.16104. Liquor Consumption in Motor Vehicle.

(a) No person shall consume any beer or intoxicating liquor in a motor vehicle (ORC 4301.64).



(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

#### Section 19.16105. Permit Required.

(a) No person by himself or by his clerk, agent or employee shall manufacture, manufacture for sale, offer, keep or possess for sale, furnish or sell, or solicit the purchase or sale of any beer or intoxicating liquor in this Municipality, or transport, import or cause to be transported or imported any beer, intoxicating liquor or alcohol in or into this Municipality for delivery, use or sale, unless such person has fully complied with Ohio R. C. Chapters 4301 and 4303 or is the holder of a permit issued by the Department of Liquor Control and in force at the time. (ORC 4303.25)

(b) Whoever violates this section is guilty of a misdemeanor of the first degree.

#### Section 19.16106. Posting Liquor Age Warning Signs.

(a) Every place in the Municipality where beer or intoxicating liquor is sold for beverage purposes, either under a permit issued by the Ohio Department of Liquor Control, or by the Ohio Department of Liquor Control, shall display at all times, in a prominent place on the premises thereof, a printed card, which shall be furnished by the Department and which shall read substantially as follows:

#### WARNING TO PERSONS UNDER AGE

If you are under the age of 18 Under the statutes of the State of Ohio, if you order, pay for, share the cost of, attempt to purchase or consume any beer or intoxicating liquor, or furnish false information as to name, age or other identification, you are subject to a fine up to fifty dollars.

If you are under the age of 21 Under the statutes of the State of Ohio, if you order, pay for, share the cost of, attempt to purchase or consume intoxicating liquor, or furnish false information as to name, age or other identification, you are subject to a fine of twenty-five to three hundred dollars, or imprisonment up to six months, or both.

No person being the holder of a permit issued by the Ohio Department of Liquor Control shall fail to comply with this section. (ORC 4301.637)

(b) Whoever violates this section is guilty of a minor misdemeanor.

#### Section 19.16107. Open Container Prohibited.

(a) No person shall have in his possession an opened container of intoxicating liquor in a State liquor store, or on the premises of the holder of any permit issued by the Department of Liquor Control, or in any other public place. This section does not apply to intoxicating liquor which has been lawfully purchased for consumption on the premises where bought of a holder of an A-1-A, A-2, D-2, D-3, D-3a, D-4, D-5 or D-5a permit. This section does not apply to liquor consumed on the premises of a convention facility as provided in Ohio R. C. 4303.201. (ORC 4301.62)

(b) Whoever violates this section is guilty of a minor misdemeanor.

#### Section 19.16108. Hours of Sale or Consumption.

(a) No beer or other malt beverage shall be sold by, delivered by, or be permitted to be consumed on

week days upon the premises of a C-1, C-2, D-1, D-2 or D-4 permit holder between the hours of 1:00 a. m. and 5:30 a. m.

No wine, prepared highballs, cocktails or other mixed drinks, as defined in the Liquor Control Act, shall be sold, delivered or be permitted to be consumed on week days upon the premises of an A-2, C-2, D-2 or D-4 permit holder between the hours of 1:00 a. m. and 5:30 a. m.

No beer or intoxicating liquor shall be sold, delivered or be permitted to be consumed on week days on the premises of a D-3a, D-5, D-5a or A-1-A permit holder between the hours of 2:30 a. m. and 5:30 a. m. and no intoxicating liquor shall be sold, delivered or be permitted to be consumed on week days on the premises of a D-3 permit holder between the hours of 1:00 a. m. and 5:30 a. m.

No beer or intoxicating liquor shall be sold, delivered, or be permitted to be consumed on week days on the premises of a D-4 permit holder between the hours of 1:00 a. m. and 5:30 a. m.

No intoxicating liquor may be sold by, delivered, or be permitted to be consumed on the premises of any permit holder during the hours between 1:00 a. m. on Sunday and Sunday midnight, except on the premises of a D-3a, D-5, D-5a or an A-1-A permit. As to holders of these excepted classes, no intoxicating liquor shall be sold or permitted to be consumed after 2:30 a. m. on Sunday.

No beer whether by the package or by the glass shall be sold or delivered or be consumed on the premises of a permit holder on Sunday between the hours of 1:00 a. m. and 5:30 a. m. except on the premises of a holder of a D-3a permit who is also the holder of a D-1 permit or the holder of a D-5, D-5a or A-1-A permit. As to these excepted classes neither shall sell, deliver or permit to be consumed on the premises, beer between the hours of 2:30 a. m. and 5:30 a. m.

The holder of a D-6 permit may sell or allow the consumption of intoxicating liquors, as authorized by his other permits, between the hours of 1:00 p. m. Sunday and Sunday midnight for on the premises consumption only.

(b) Whoever violates this section is guilty of a minor misdemeanor.

#### Section 19.16109. Bottle Clubs.

(a) No person, club, organization, association or corporation shall:

(1) Keep, set up, maintain or operate any place, structure, building or conveyance for the purpose of providing a storage area wherein members, guests or other persons are allowed to keep and maintain for the purpose of consumption therein, beer and intoxicating liquors.

(2) Occupy any place, structure, building or conveyance for the purpose of providing a storage area wherein members, guests or other persons are allowed to keep and maintain, for the purpose of consumption therein, beer and intoxicating liquors.

(3) Receive, or offer or agree to receive, any person into any place, structure, building or conveyance for the purpose of allowing such person to consume or store liquors or beer therein, or permit any person to remain there for such purpose.

(4) Reside in, enter or remain in any place, structure or building, or

enter or remain in any conveyance for the purpose of storing or consuming beer or intoxicating liquors therein.

(b) This section does not apply to any premises being operated under the authority of a license issued by the Ohio Department of Liquor Control.

(c) Whoever violates this section is guilty of unlawful operation or use of a bottle club, a misdemeanor of the third degree.

#### Section 19.16110. Conveying Intoxicating Liquors or Drugs into Hospital.

(a) No person shall convey or attempt to convey into any hospital, sanitarium or other place of confinement for the ill or convalescent, other than a private dwelling, any intoxicating liquor or stimulating sedative or narcotic medicine such as cocaine, opium, chloral, chloroform or ether, except in accordance with the rules of the institution involved or unless the same is prescribed by a physician in attendance at such institution; nor shall any person admitted as a patient at any such hospital, sanitarium or other place of confinement for the ill or convalescent, other than a private dwelling, have in his possession, or attempt to induce others to obtain for him, any such liquor or drug unless the same is authorized by a physician in attendance at such institution; nor shall any person in the employ of any hospital, sanitarium or other place of confinement for the ill or convalescent, other than a private dwelling, knowingly permit a patient confined therein to receive any such liquor or drug unless the same is prescribed by a physician in attendance at such institution.

(b) Whoever violates this section is guilty of conveying intoxicating liquor or drugs into hospitals, a misdemeanor of the first degree.

Section 6. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed June 14, 1976.

Effective June 18, 1976.

#### Ord. No. 1109-76.

By Councilmen Lynch and Forbes (by departmental request).

An emergency ordinance authorizing the Mayor, on behalf of the Cleveland Area Western Reserve Manpower Consortium, to expend a grant from the United States Department of Labor under the Comprehensive Employment and Training Act of 1973, as amended.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland;

Section 1. That the Mayor be and he is hereby authorized on behalf of the Cleveland Area Western Reserve Manpower Consortium to expend in accordance with the terms and provisions thereof, grants from the United States Department of Labor for the administration and operation of a Comprehensive Employment and Training Program; and that the Mayor be and he is hereby authorized, on behalf of the Clevel-



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